

# India: Women's Right to Land and Housing

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*Women constitute of ½ of world's population and do 2/3 of world's work.  
In return,  
Women get 1/10<sup>th</sup> of world's income and own 1/100<sup>th</sup> of world's wealth.*

The United Nations

Women's Right to Land and Housing has been major concern of the women's movement in India for over two decades. Globally, women's land rights are becoming an area of increasing urgency. In most societies, women have historically managed the unpaid care economy and fulfilled the responsibilities of cooking, cleaning, family care, collection of fuel, fodder, water, kitchen gardening, poultry and animal husbandry and provided food and nutritional security. As women's contribution to the economy and society at large remains unrecognised, largely underpaid and mostly unpaid, the need for women to be able to secure land and property has become even more critical.

Similar to the cross-cutting nature of women's human rights issues, women's land and housing rights intersect with other problems such as discriminatory inheritance patterns, disinheritance thro' wills, agriculture and development issues, use of forest-based resources, gender-based violence, the appropriation and privatization of communal and indigenous lands, as well as gendered control over economic resources and the right to work. The interdependence of women's human rights highlights the importance of women being able to claim their rights to adequate housing and land, in order to lessen the threat of discrimination, different forms of violence, denial of political participation, and other violations of their economic rights.

## **International Human Rights Laws:**

While there is a need to strengthen the recognition of women's right to land and housing, this human right is related to the right to an adequate standard of living and freedom from forced eviction. These rights are recognized by several international documents such as:

- The Universal Declaration of Human Rights, 1948 (Articles 17 and 25);
- International Covenant on Civil and Political Rights, 1966 (Article 17);
- International Covenant on Economic, Social and Cultural Rights, 1966 (Article 11);
- UN Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW Articles 13-16).

While housing and property rights are guaranteed to women through international documents as well as through constitutions and laws in many states, often the implementation of these rights is overshadowed by existing patriarchal practices and discriminatory patterns. Religion based family laws and customary laws play important roles in determining women's rights to land and housing

are different for different communities and religious groups.

### **Constitutional Provisions in India:**

Constitution of India has guaranteed “equality before the law” and “equal protection of laws within the territory of India” to citizens irrespective of class, caste, race, religion and sex as per Article 14. Article 15 (1), 15(2) and 15 (3) not only prohibit discrimination on the basis of sex, but also provide possibility to apply affirmative action policies for women and children. Women’s Policy adopted by Maharashtra, 2001 support land rights for women and in 2003 the state government issued a Government Resolution (GR) to that effect. A.P. state government was the first among all states of India, to declare land and property rights for women during mid-nineties. It was followed by amendments in the Hindu Code Bill after the public interest litigation was filed demanding coparsonary rights for Hindu daughters in the ancestral property.

### **Women’s Movement for Land Rights:**

During 1980s, rural women of Bodh Gaya waged a heroic battle under guidance of Chatra Yuva Sangharsh Vahini against Mahant of Shankar Math who had usurped 12000 acres of land. Monks of the Math used to behave like feudal lords and many lecherous monks also used to sexually exploit poor women agricultural workers. They raised slogans such as “One who cultivates land is the owner of the land” and “One who ploughs, sows and harvests is the owner of the land”. Along with mass mobilisation, they also filed public interest litigation and after a long drawn struggle, in 1989, the Supreme Court of India gave a historic judgement and decreed that the land under control of Math should be distributed among the agricultural labourers. The state and district administration consulted only men. Only in Katora and Kusha-Beeja villages some women managed to get land in their names after consistent mass mobilisation. Land-ownership to women resulted in reduction of wife-beating, alcoholism and mortgage and sale of land. While, in Kusha, the land was given to daughters, in Mastipur, the daughters-in-law inherited land.

Public interest litigations filed by Bhuribai and Dhagibai, tribal agricultural women workers in Dhule district of Maharashtra and by Laro Janco in Singbhoom in 1985 backed by strong ground level land-struggles and movements of women invited attention of policy makers to the burning issue of land rights. But, without gender aware administration dealing with land allocation, inheritance and dispute settlement, prejudice against women persists among officers who don’t allow women to benefit from land and housing rights. Both, NGOs and GOs, when it comes to women’s development, focus on employment generation rather than ownership and control over land, shop or house.

During 1980s, as feminist activists when we joined National Campaign for Housing Rights, an umbrella organisation fighting for ‘housing for all’, we were acceptable as mobilisers, translators and foot soldiers but as soon as we demanded land and housing rights for women, we were shunned. For the campaigners only category that was meaningful was ‘poor’ not ‘women’.

Since 1990, Shetkari Sangathana has persuaded hundreds of families to in their areas of influence in rural Maharashtra to implement joint registration of land and housing in the name of husband and wife. In 2006, MASUM, NGO in Pune, launched a campaign for joint registration of property as per GR passed in November, 2003. Within a year, MASUM managed to achieve joint property registration for 95 % of households in 80 villages of Purandhar Taluka. In 2002 Janu, a tribal woman leader of Vaynad district of Kerala has exposed patriarchal biases in the land-reforms implemented in Kerala. In Gujarat, women’s organisations have formed a coalition to pressurise the state to ensure land-right for women. As land struggles, accentuate, increasing number of incidents have been reported in Maharashtra, M.P., Bihar and Jharkahnd of witch-hunting of female headed households managed by widows, single, divorced and deserted women by the vest interests driven

by their greed to grab their land.

### **Genesis of Women's Movement for Housing Rights:**

When women's groups started providing support to women in distress, it was relatively easier to find jobs and school-admission for children. The most difficult task was to get an accommodation for women victims of violence, desertion, rejection from natal or matrimonial family and cheating by their relatives.

Women's Movement has been doing advocacy work about housing rights for women since 1980. Says Ms. Neera Adarkar, an Architect and a trustee of Majlis, Bombay, *"In the beginning, I saw myself as an architect. But after being a practicing architect, who was dealing with building construction activities for a number of years, I have started critiquing my profession. Housing and other environments with which we worked have to follow certain norms as they affect our lives on a daily basis. We take our built environment (house-community-city) for granted. We think that this environment exists, but actually, it is built by men. We have to ask ourselves questions such as,*

*'Do we as women, utilize space differently?'*

*'Can we create environments which are more gender sensitive?'*

*'Can we make policy makers and planners who are working at the state level understand the politics of built environment and gender rules?'*

*'What are our alternatives to the existing approach adopted by Slum and Service Schemes (SSS) and Slum Rehabilitation Schemes (SRS)?'*

*'What interventions can we make in the city planning which involves physical access, economic access and social access?'*"

### **Women's Right to Housing (WRH):**

WRH is linked with women's right in property, land and inheritance. As primary user of housing, women's stakes and requirements are the highest in housing. For women, beyond shelter, housing is a place of employment, a place for social interaction, a place for childcare and a refuge from social instability and sexual violence.

### **Special Needs of Female Headed Households (WHHs):**

In the peaceful areas of India, 1/10<sup>th</sup> of the households are headed by divorced, deserted and single women. In our country, in the conflict prone areas, over 30 % households are headed by women. In WHHs women shoulder main economic responsibilities including house hunting. Even if they have money, they face hurdles while looking out for a rented place or a house on an ownership basis. Nearly one-third of households worldwide are now headed by women; in certain parts of Africa and Latin America, as many as 45 percent are FHH. The households headed by women tend to be poorer than male headed households. United Nations Centre for Human Settlements (UNCHS) (Habitat) estimates that at least 600 million people in the cities of developing countries live in shelters that are life-or health-threatening.

### **Women's Rights to stay in Parental and Matrimonial Homes:**

In the last 20 years, many women filed petitions in the High Courts and the Supreme Court of India

demanding wife's right to live in the matrimonial home and daughter's right to stay in the ancestral home. Till the recent amendment in the Hindu Code as per Mitakshara laws, only sons were allowed coparsonary rights over ancestral property as they were considered Karta. Lata Mittal challenged Mitakshara laws applicable to Hindu daughters who are deprived of right to stay in the ancestral home. Protection of Domestic Violence Act, 2005 has ensured right to stay in matrimonial and parental home to women.

### **Housing and Women's Identity:**

Women's identity is entwined with a house but housing's identity as a capital investment and the largest outlay in the household budget lies with male head of the household. Whether women are or aren't property owners, their place of sphere is considered to be within the house. Even, this cult of domesticity does not help women as it perpetuates low status of women. Market economy devalues domestic work and the mainstream planners and policy makers consider it 'non-work' and invisibilise women's housing concerns.

### **Gender Bias and Housing Problems:**

The gendered construct of social and economic relations within and outside the household and deeply entrenched patriarchal attitudes in the civil society discriminate against women in virtually every aspect of housing, be it policy development, entitlement in government projects, control over household resources, right of inheritance and ownership and even the construction of housing.

### **Emerging Issues:**

There is a need to focus on housing in terms of "personal meanings" as well as affordability, women's role and the housing industry. The state must take affirmative action to empower women in exercising their housing rights because men as property owners enjoy privileged position and control housing delivery system. Moreover general subordination of women is also reflected in women's lack of representation in higher echelons political bodies. Societal restrictions reinforce women's status as second- class citizens. As a result, women professionals in the housing industry i.e. engineers, architects and agents have to sub-serve the interests of male-dominated construction industry.

### **Gender Aware Approach:**

Gender-neutral approach in housing goes against women's interest as women's concerns get subsumed under general agenda. Hence there is a need to introduce gender aware approach in housing that takes women's strategic and practical needs, concerns and rights into consideration. For that, we will have to sensitize all stake groups in the housing industry i.e. land surveyors, builders, developers, designers, financiers, mortgage bankers, lawyers, credit unions, government officers, material suppliers, real estate brokers, appraisers, contractors, interior decorators, gardeners, landscape architects and cooperative societies. In the language of economics, both, supply side-production, construction, management, maintenance, rehabilitation and the demand side community groups, consumer forum and cooperative societies should be sensitized about women's housing rights. Moreover, segmentation of women in factor, labour and product markets regarding land and housing also needs to be addressed.

### **Gender Audit of Syllabi for Engineering, Architecture and Interior Designing:**

Public-private split in the syllabi of construction related academic disciplines needs to be questioned. The syllabus should emphasize that as a physical structure, the house is a site for multi-

tasking: house work (cooking, cleaning, caring), home-making and wage-labour for majority of women all over the world. A house layout influences and affects gender roles among household members and therefore mirrors change in society's concept of the family. Designing of house should promote the ethos of shared housework by men and women members of the household.

### **International Human Rights Law on Security of Tenure:**

A person is said to have a secure tenure if he/she is protected from being removed arbitrarily and involuntarily from their homes and lands. Tenure is secure if it is protected by legislation rather than protected merely through customs and traditions.

### **Threat to Women's Security of Tenure (WST):**

Circumstances and conditions that threaten WST are

- Gender biased laws preventing women from owning, inheriting, purchasing, leasing, renting, bequeathing housing, land and property.
- Judicial Interpretation of the Law: Even when there is no explicit forbidding of WRH in gender-neutral laws, still they create obstacles for WRH because of male-chauvinistic interpretation of the gender neutral laws. General statements are considered to be applicable to only men.
- Land and Housing Systems as they grant titles to private property to "Heads of Households" who are often deemed to be men.
- Customary laws, Traditions, Attitudes: Many cultures and customs don't grant women's independent existence. In several cultures women staying alone, without male protection are punished severely due to sexist attitudes. Customary laws are not codified. In polygamous and polyandrous communities, shared community values go against individual women leading independent life.

**Domestic Violence:** Domestic violence challenges security of tenure of women by generating fear, tension, insecurity among women victims and their minor children. Violation of WRH can be both the cause and the consequence of violence against women, particularly in case of domestic violence.

**Financial and Material Barriers:** Major hurdles faced by women in the housing market are due to gender-biased policies in financing for housing, availability of services, material and infrastructure, affordability, habitability, accessibility, location and cultural adequacy to handle political economy of housing. Women face major difficulties in securing loans for purchase of good quality housing. It is not easy for single women or WHH to get rental housing. Even if they manage to get rented homes, they have to face harassment of various sorts. Unmarried single women are perceived as threat to sexual morality. In the absence of old age homes for women, the plight of women senior citizens is deplorable. Many destitute women start staying on the pavements or railway platforms.

### **Indian NGOs and WRH:**

Discourse on women's right to shelter has crystallised into two positions.

1. **WRH independent of male ownership & Control** because women's land-use priorities are different from that of men. Single women's association working with Ekal Nari Sangathan in Rajasthan and Himachal Pradesh support this position.

2. **Joint Titles** - majority of poor masses hardly manage to have one house. Hence, separate house

for women is a non-issue and we should focus on joint titles of landed property. MASUM, Pune and Shetkari Sangathana, Nashik have followed this position.

For both approaches, there is a felt need for a training manual to deal with the modalities of attaining WRH.

### **Experiences of SEWA and SPARC:**

Self Employed Women's Association (SEWA) demands inclusion of women's name in the title of property before granting loans for housing. As monetary benefits accrue to the family, the husband/father and family members accept the proposal of joint titles to land/house. In response to dowry murders in Kheda dist. Where gold is given in dowry, SEWA encouraged its members to give house in the name of daughter at the time of marriage instead of gold.

SPARC: Supports Mahila Milan (MM), network of pavement dwellers, assists MM to get recognition and support from the settlements, skills & training, makes resources available for the low cost housing.

### **State and Civil Society Initiatives:**

Progressive states have empowered women by granting housing rights. For example, Building societies in Sweden & England, Unions in Germany, Self help Groups & Cooperative Enterprises in Canada, Central & Latin America, Africa and Asia.

The enlightened nation states accept societal responsibility for women's housing and the rest live it to individual women to fend for themselves.

### **Witch-hunting of Women Exercising Right to Housing**

Targeting of female headed households for witch-hunting has become a major issue confronting women's movement in all states North and Western India. Single widowed /divorcee Dalit / tribal women are labelled *Bhootali* "in tribal Maharashtra," *Dakan* in Gujarat and *Dayeen* in Bihar, Jharkhand by the vested interests to grab their land and house. In 2001, during *Koombha Mela* in Allahabad 60000 women were deserted by their family members. Most of them were aging women or young widows. In the urban India, family members purchase 'madness certificates' from psychiatrists to deprive women of land and housing rights. In the rural and tribal areas *Sarpanch*, *Talati* & *Tahasildars* taking advantage of illiterate women usurp their land and house. The Land Acquisition Act 1894 (Amended in 1984) has caused major suffering to women in the process of displacement.

### **The UN on Forced Eviction**

Women and other vulnerable individuals and groups suffer disproportionately from the practice of forced eviction. Women in all groups are especially vulnerable given the extent of statutory and other forms of discrimination which often apply in relation to property rights (including home ownership) or rights of access to property or accommodation, and their particular vulnerability to acts of violence and sexual abuse when they are rendered homeless." (UN Committee on Economic, Social, and Cultural Rights, Sixteenth Session, 1997).

Displaced Population due to Natural as well as man-made disasters: Women victims of natural disasters such as floods, earth-quacks and social disasters such as caste, communal, ethnic conflicts and war become extremely vulnerable in an exploitative and unfamiliar environment once the security of the community is lost. National Alliance of People's Movement has focussed on issues

involved in displacement, relocation and rehabilitation.

There are three approaches adopted by people-oriented architects to handle the issue of shelter.

**1. Legal approach:** It deals with ownership rights and tenure, right to matrimonial property of married women, right to ancestral home for an unmarried daughter. Hema Dandekar's study of Charcop's Sight and Service Scheme reveals that in this scheme there is no bar against women owning a house. Loan facilities given for buying a flat depend upon the repaying capacity of women.

**2. Social Approach:** House as a unit is related to family structure. It gets reflected in a housing policy. Women and Shelter Group had done advocacy work in these regards. States a feminist architect, Neera Adarkar, "After 1993, some of us made interventions in changing the scenario. We took responsibility to reconstruct the destroyed homes in the riot-affected areas near Mahim utilising Times of India funds. For this we had to run from pillar to post. We had to face an extremely communal attitude of the entire bureaucracy. After three-four months, we managed to get a plot of land/*pattas* in Dindoshi. We had to meet the collector a couple of times to see to it that the *pattas* given to riot-affected people are in the name of women because women use these *pattas* for subsistence while men use them as commodity in the market."

**3. Physical planning of a house:** Patriarchal values get reflected in the physical planning of a house. Rules and regulations, by-laws have been stipulated by the Urban Development Department. In BDD chawls, all spaces allocated for community have been used by men where women feel constrained. In slum projects and sight and service projects, kitchen and toilets are clubbed together. 'Kitchen and toilet' are treated as isolated spaces while women beneficiaries of slum development projects don't like it. Architects from MHADA don't listen to the women's point of view. Ventilation is not considered to be all that important. A small study of slums and chawls in Bombay showed that women emphasized a separate space in the community that is exclusively used for washing clothes and making *chapatis* (Collective kitchen). Nagari Nivara Trust headed by Smt. Mrunal Gore and Baburao Sawant dealt with a mass housing project for five thousand people. In this, they made a provision for a space in the community, which is exclusively used, for women's activities. Even, the ownership titles are made in the name of women. There is a need for a shelter home for women in distress and a *crèche* within each plot. SPARC, Bombay has managed to get *balwadi* and community hall included in their project areas. As per the FSI regulation, while zoning and city planning, 'public' is separated from 'private' but in actual reality women's lives are not compartmentalised like this. We need to critique the existing housing policies, demystify technical language and conduct surveys to understand how women's lives are affected by the urban development. To bring changes in the by-laws which are gender sensitive and people friendly, the lawyers and architect will have to work in collaboration. We need to raise consciousness among the students of architecture, more than fifty percent of who are women. When I ask the students of architecture the question regarding home-based professions, they identify women home-based professionals as providers of *crèche* facilities, dance-teachers or beauticians, while male home-based professionals are identified as engineers, doctors, chartered accountants and management consultants. Many women architects are going to be home-based professionals and they have to redesign the existing patterns of houses, keeping in mind both house-work and professional duties. The same applies to their women clients who are shouldering double burden. Advantages of keeping kitchen-space near drawing/ living room are many:

a. Women don't feel isolated from rest of the happenings in the outside world.

b. All members of the family start taking interest in kitchen cabinet. They get encouraged to share housework.

c. It ensures cleanliness of the kitchen area, as it is visible.

## **Conclusion:**

Women's land and housing needs must be understood from the point of view of women's rights to dignified life. They should not face any discrimination in exercising their right to land and housing due to their caste, race, age, religion and ethnicity. State and civil society initiatives must facilitate the process of women's empowerment through exercising WHRs. The local self government bodies should reserve 10% of all houses/ flats/ industrial units/ shops in the market places for women. Rural and tribal women must get their land and housing rights. Schools of Architecture, Engineering Colleges and Institutions for Interior Designing should organize capacity building workshops and training programmes for women. Gender sensitization of the decision-makers in the housing industry (both public and private sector) and the elected representatives of the mainstream political bodies should be given top priority. For formulation of gender-sensitive policies, experts on the subject should be inducted in the apex bodies of urban, rural and tribal housing projects.

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